Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Conference	)	WC Docket No. 02-269
On Accounting Issues	)	

REPLY COMMENTS OF BELLSOUTH

BellSouth Corporation, for itself and its wholly owned affiliated companies (collectively "BellSouth"), submits the following reply comments in response to comments filed in the above referenced proceeding.[1]

1. In the *Notice* for these comments, the Commission reiterated the purpose for the establishment of the Federal-State Joint Conference on Accounting Issues ("Joint Conference"). Its stated goal is to "provide a forum for an ongoing dialogue between the Commission and the states in order to ensure that regulatory accounting data and related information filed by carriers are adequate, truthful, and thorough." The *Notice* goes on to state "the Joint Conference, will further this goal by facilitating cooperative federal and state review of regulatory accounting and related reporting requirements in order to determine their adequacy and effectiveness in the current market and make recommendations for improvement." Indeed, the driving force behind the formation of the Joint Conference, other than the "increased public concern over the adequacy of financial accounting,"[2] was the apparent concern by various state public service

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[1] *Federal-State Joint Conference on Accounting Issues*, WC Docket No. 02-269, Request for Comment, DA 02-3449, at 1 (rel. Dec. 12, 2002) (citing 47 U.S.C. § 161) ("*Notice*").

[2] *Notice* at 2.

commissions ("PSCs") over the actions taken by the Commission in its recent analysis and revision of some of the regulatory accounting requirements prescribed by Part 32 of the Commission's rules. Some of these state PSCs expressed concern that the Commission's rule changes could affect their ability to collect and analyze financial and accounting data that they need for various state purposes.

2. For that reason, BellSouth, while believing the Commission's analysis in its different phases of the accounting rules review to be adequate, welcomed the Joint Conference's *Notice* as an opportunity to understand the state PSCs' concerns and address them fully. BellSouth saw this as an opportunity for such issues to be identified and discussed in an open forum so both sides could express concerns and identify possible alternatives to meet these concerns. Such information from the state PSCs was especially necessary in this proceeding where the state PSCs carry the burden of showing why the changes they contend are needed for state purposes should be imposed by the Commission nationally on all incumbent local exchange carriers ("ILECs"). Thus, BellSouth saw the *Notice* as an opportunity for the state PSCs to go beyond the same *ipse dixit* claims that the need for the information they request is warranted.

3. Instead, the same situation ILECs have faced in the past has resurfaced. Only three state PSCs – Florida, North Carolina, and Wisconsin – filed comments in this proceeding. BellSouth appreciates these state PSCs' efforts in filing; however, BellSouth, and other ILECs, have addressed most of the issues and concerns raised in these filings in the joint comments filed in the Phase 3 proceeding.[3] As to the remaining 47 state PSCs, BellSouth, as well as the other ILECs, is once again placed in a position of trying to guess the reasons why states continue to

[3] Joint Comments of BellSouth, SBC, Verizon, Qwest, Frontier and CBT, CC Docket Nos. 00-199 and 99-301 (filed Apr. 8, 2002) ("Joint Comments").

ask for these modifications. It is difficult, if not impossible, to articulate solutions to the states' perceived need for information when the states have never verbalized those needs beyond merely claiming, in broad terms, that more information is necessary for them to carry out their regulatory responsibilities. The Commission has an obligation to make regulatory decisions – especially those imposing burdensome and costly requirements on a segment of the industry – based on substantive evidence supporting its decision. Indeed, increased regulation based on mere blind statements that such regulation is potentially needed for some undefined state purposes could hardly stand up to judicial review. The state PSCs' refusal to enter into a substantive discussion in this proceeding is a clear mandate that the Commission should not alter the findings in the *Phase 2 Order*,[4] except for those issues properly presented in the Joint ILECs' Petition for Reconsideration.[5]

4. Of the other entities that filed comments, many attempted to fan the flames of accounting scandals and alleged ILEC improprieties as valid and necessary reasons for the Commission to extend the accounting and reporting requirements beyond what is currently required. The problem with these claims, however, is that the large ILECs, the only entities subject to the full panoply of Commission accounting and reporting rules, are not the cause of the accounting scandals, nor have they participated in the indiscretions alleged. The largest

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[4] *2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2, et al.*, CC Docket No. 00-199, *et al.*, *Report and Order in CC Docket Nos. 00-199, 97-212, and 80-286 and Further Notice of Proposed Rulemaking in CC Docket Nos. 00-199, 99-301, and 80-286*, 16 FCC Rcd 19911 (2001) ("*Phase 2 Order*").

[5] *2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2,* Petition of BellSouth, SBC and Verizon for Reconsideration of Report and Order in CC Docket Nos. 00-199, 97-212, and 80-286 (filed Mar. 8, 2002) ("Joint ILECs' PFR").

accounting scandal in history was perpetuated by WorldCom, an interexchange carrier ("IXC") that is not subject to the Commission's accounting and reporting rules. Thus, while BellSouth does not advocate increased regulation, if the Commission were to accept the accounting scandals as a basis for increasing accounting and reporting rules, these rules must address the entities that caused the scandals. It would make no sense to increase regulations over ILECs to correct problems that were not of their making.

5. Equally perplexing is the notion that regulatory accounting, which is the basis of this proceeding, was designed to protect against the accounting scandals mentioned by the commenters. Although it seems to understand the difference between regulatory accounting and financial accounting, AT&T attempts to exploit the accounting scandals and ignores the changes that have occurred in the industry that have diminished the need for much of the regulation that currently exists. As BellSouth explained in its comments in this proceeding and in the Joint Comments filed in the Phase 3 proceeding, price cap regulation along with competition in the market has eliminated most of the reasons regulatory accounting was implemented. Indeed, most of the consumer pricing and cross-subsidy issues raised by AT&T in its comments have been greatly diminished by price cap regulation and certainly should not be used as justification for increasing the burdensome accounting and reporting requirements, including the affiliate transaction rules.

6. Moreover, claims that ILECs have engaged in accounting improprieties are equally unsupportable as a basis for increased regulation. AT&T carelessly alleges that "dominant incumbent LECs often do not take these accounting and reporting requirements seriously."[6] Attempting to support its broad-brush allegations, AT&T points to various

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[6] AT&T Comments at 3.

proceedings; however, each of these proceedings, no matter how improperly spun, do not stand for the pejorative context in which AT&T tries to place them. First, the continuing property records ("CPR") audits[7] were all based on faulty samples and drew improper conclusions. Accordingly, the Commission dismissed them and took no action on the matter, notwithstanding AT&T's attempts to get the Commission to do otherwise. Second, the suggestion that Bell Operating Companies ("BOCs") have not complied with requirements relating to their relationship with their separate affiliates created for the provision of interLATA telecommunications services ("272 Affiliate")[8] is equally unfounded. The Commission has not found any non-compliance in SBC's or Verizon's relationship between their BOCs and 272 Affiliates. AT&T's mere allegations of non-compliance have no bearing in this proceeding.

7. AT&T also attempts to force a need for accounting and reporting requirements on its continued attempts to have the Commission abandon price cap regulation and return to rate of return regulation. AT&T first does this by bringing into this proceeding the arguments it espoused in its Petition for Rulemaking regarding special access reform.[9] Just as AT&T's arguments in that proceeding do not support the undoing of the past twelve years of price regulation, they likewise do not support a continued need for burdensome accounting and reporting regulation. In fact, the opposite is true. In support of its petition, AT&T claims that the rates of return for special access are excessive and that the historical returns are conclusive proof that the LECs possess market power.[10] As BellSouth discussed in its comments in the

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7 *Id.* at 10-11.

8 *Id.* at 11, 19; *see* 47 U.S.C. § 272.

9 AT&T Corp. Petition for Rulemaking To Reform Regulation Of Incumbent Local Exchange Carrier Rates For Special Access Services, RM No. 10593 (filed Oct. 15, 2002) ("AT&T Petition").

10 AT&T Petition at 8.

AT&T Petition proceeding, however, the special access rates of return relied upon by AT&T are meaningless in a price cap regulatory regime and, more importantly, are dependent upon arbitrary cost allocation and separations processes that have not kept track with the rapid technological and market changes.

8. AT&T also attempts to show a need for the continued accounting and reporting requirements based on the request by ILECs to amend their tariffs to allow them more flexibility in charging deposits for wholesale customers.[11] AT&T cannot deny that ILECs lost significant amounts of money in the WorldCom bankruptcy and remain vulnerable to additional losses as more carriers suffer the effects of the economic downturn that has pummeled the entire industry. ILECs stand to lose the most because of their wholesale requirements in the provision of unbundled network elements and their access market. While the Commission may ignore the realities of this situation in allowing ILECs the opportunity to properly manage the increased business risk due to nonpayment by their customers, AT&T cannot reasonably argue a need for continued burdensome regulation for information that the ILECs can provide at the Commission's request. The Commission did use information from ARMIS in its decision regarding the tariff language on deposits; however, that does not justify continued, or additional, accounting and reporting regulatory requirements. Just because a broken clock is right twice a day does not rationalize leaving the clock broken.

9. Finally, several commenters stated, without providing supporting reasons, that the Commission should increase accounting and reporting requirements to support the states in determining UNE prices. The comments filed by the Joint ILECs demonstrated that the existing accounting and reporting requirements are more than sufficient to support the states in their

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[11] AT&T Comments at 5-6.

monitoring of UNE prices.[12] These prices are not based on historical accounting costs, but instead are based on forward-looking costs of a hypothetical efficient network. Consequently, historical costs are at best marginally relevant in their calculation. Furthermore, UNE studies already require a greater level of detail than is required by Part 32 or ARMIS reporting. There are certainly no reasons to require the ILECs to incur costs to comply with additional accounting and reporting requirements when data are already available through separate studies or can be provided on an as needed basis.

Conclusion

For the reasons set forth in BellSouth's Comments and in these Reply Comments, the Commission should not alter the regulatory relief granted in the *Phase 2 Order*, nor should it add any regulations discussed in the *Notice*. The Commission should, however, grant the Joint ILECs' PFR regarding certain issues in the *Phase 2 Order*. As set forth in the Joint ILECs' PFR, implementation of the new regulations created by the *Phase 2 Order* is extremely burdensome but provides no real benefit to the Commission or the state PSCs.

Respectfully submitted,

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12 *See* Joint Comments.

CERTIFICATE OF SERVICE

I do hereby certify that I have this 19th day of February 2003 served the parties of record to this action with a copy of the foregoing **BELLSOUTH'S REPLY COMMENTS** via Electronic Mail and U.S. Mail to the parties on the attached service list.

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